

102627

AMENDMENT NO. 1
TO THE AGREEMENT BETWEEN THE
CITY OF PHOENIX AND THE STATE OF ARIZONA
FOR THE CERTIFICATION ACCEPTANCE PROGRAM AND PROCEDURES

THIS AMENDMENT, (“Amendment”) is made and entered into by and between the City of Phoenix, an Arizona municipal corporation ("City") acting by and through its City Manager, and the State of Arizona acting by and through its Department of Transportation (“State”) as follows.

RECITALS

A. The City is authorized and empowered to enter into this Amendment pursuant to Article II, Section 2 of the Phoenix City Charter and has by resolution resolved to enter into this Amendment and has authorized the undersigned to execute this Amendment on behalf of the City.

B. This Amendment modifies the original Certification Acceptance Program Agreement (“Agreement”) made and entered into by the City and the State on February 22, 1996. In full compliance with the provisions of Title 23 of the United States Code (23 U.S.C.), the Agreement permits the State to discharge certain responsibilities otherwise assigned to the United States Secretary of Transportation for federal-aid projects, and to further delegate partial or full certification acceptance to local governments that meet the criteria established by the State and the Federal Highway Administration (“FHWA”).

C. The State and the City through this Amendment now desire to further define the responsibilities of the FHWA, the State and the City in establishing procedures in accordance with the Federal-Aid Policy Guide 23 CFR 640 et seq. and applicable State laws.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter contained, it is agreed by and between the City and the State as follows:

1. The Recitals as set forth above are accurate in every respect and are incorporated into and made a part of the parties’ Agreement and the Amendment by this reference.
2. Unless specifically modified by this Amendment, the terms and conditions of the Agreement shall remain unchanged and are incorporated into and made a part of the Amendment by this reference. In the event of any conflict between the Amendment and the Agreement, the terms and conditions set forth in the Agreement shall control.

3. A new paragraph 4 shall be added to Section II—"SCOPE" of the Agreement as follows:

4. The City shall be responsible for administering the Disadvantaged Business Enterprise (DBE) Program requirements set forth by the United States Department of Transportation (USDOT) in 49 CFR Part 26 in administering federal aid highway projects. The City shall:

- (a) Follow the policies and procedures established for the administration of the federal DBE Program as set forth in the City of Phoenix Disadvantaged Business Enterprise Program Plan accepted by the State on September 20, 2000.
- (b) Include language in all specification documents that reflects the City's administration of DBE program requirements for federal aid highway projects.
- (c) Certify firms under the provisions of 49 CFR Part 26 for participation on federal aid highway projects.
- (d) Establish DBE project goals for individual federal aid projects in accordance with the requirements of 49 CFR Part 26.
- (e) Adopt the annual DBE program goal established by the State or elect to establish a separate annual goal specific to the FHWA projects to be administered by the City during the next fiscal year. The City shall notify ADOT and submit all relevant annual goal documentation by the due date set forth by ADOT.
- (f) Make a determination of bidder responsiveness and responsibility to DBE program requirements set forth in project specification documents for federal aid highway projects. Such determinations shall be made in accordance with the procedures set forth in the City of Phoenix Disadvantaged Business Enterprise Program Plan.
- (g) Conduct compliance monitoring and report the City's DBE goal attainment on federal aid highway projects to the State.

Remainder of page intentionally left blank

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on
2/19/03.

State of Arizona
Department of Transportation

By Victor Mendez
Victor Mendez, P.E.
Director, Arizona Department of Transportation

City of Phoenix, Arizona, Frank Fairbanks, City
Manager

By Thomas E. Callow
Thomas E. Callow, P.E.
Street Transportation Director

ATTEST:

By Susan J. Hilde
City Clerk
CHIEF DEPUTY

APPROVED AS TO FORM:

William Book
By _____
ACTING City Attorney
DLB

**CITY OF PHOENIX
REQUEST FOR COUNCIL ACTION**

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Complete this form per O.P. 1.906 and A.R. 4.11.

Refer to the City Council Agenda Process Reference Guide for Assistance

ACTION REQUESTED	Formal Action:	OR	Legal Document:
	Bid Award <input type="checkbox"/> License Application <input type="checkbox"/> Public Hearing <input type="checkbox"/> Other <input checked="" type="checkbox"/>		Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Emergency Clause? <input type="checkbox"/> (for use only w/ord. or res. requests)
IMPACTED DISTRICT(S)	CITYWIDE	ADDITIONAL BACKUP MATERIAL SENT UNDER SEPARATE COVER? <input type="checkbox"/>	
SUBJECT	AMENDMENT NO. 1 TO INTERGOV. AGREEMENT WITH STATE OF AZ DEPT. OF TRANS. - FEDERAL AID TRANSPORTATION PROJECTS		
REQUESTED AGENDA DATE	6/5/2002	PREPARED BY	Name: Pete Johnson, P.E. Department: Street Transportation Phone: 495-2066
APPROVALS	Division Head:	Pete Johnson, P.E.	If prepared for another department: Department Name: Equal Opportunity Dept. Approval:
	Department Head:	Thomas E. Callow, P.E.	
BID AWARD INFORMATION	Bid Surety Required? <input type="checkbox"/>	Performance Surety Required <input type="checkbox"/>	
	Submitted by Low Bidder? <input type="checkbox"/>	Amount? _____	
CONTRACT INFORMATION	Contract Amendment? <input type="checkbox"/>	Requisition No. _____	
	If Yes, Current Contract No. _____		
	Approved by: _____	Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Formal Action <input type="checkbox"/>	on Date: _____
BUDGET INFORMATION	\$ _____	To Be Encumbered? <input type="checkbox"/>	
	Source of Funds: _____	Fiscal Year? _____	
	Fund Center(s) (SAP-FM): _____		
	Commitment Item(s) (SAP-FM): _____		
CITY MANAGER'S OFFICE	Approved by Jack Tevlin, Deputy City Manager, 5/20/02		CM Control No. 04
CITY CLERK DEPARTMENT	Council Action Taken: Approved		
	Ordinance Number: _____	RCA No.	38701
	Resolution Number: _____	Contract No.	_____
	Comments: _____	Meeting Date	6/5/2002
		Item No.	115

ITEM**CITYWIDE****AMENDMENT NO. 1 TO
INTERGOV. AGREEMENT WITH
STATE OF AZ DEPT. OF
TRANS. - FEDERAL AID
TRANSPORTATION PROJECTS**

Request to authorize the City Manager, or his designee, to enter into Amendment No. 1 to the Intergovernmental Agreement with the State of Arizona Department of Transportation regarding certification acceptance program and procedures for Federal Aid Transportation projects.

The scope of this agreement modifies the City and State responsibilities for administration, certification, and monitoring of the Disadvantaged Business Enterprise Programs that are part of Federal Aid Transportation projects. This amendment clarifies the responsibilities of each party and allows the City to more effectively process federal aid funding for City transportation projects.

Financial Impact

No direct City funding is required. Individual transportation projects will continue to be funded according to Federal Highway Administration regulations.

The Street Transportation Director and Equal Opportunity Department Director concur with this request.

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